

EXHIBIT 8

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

STATE OF MISSISSIPPI;
STATE OF ALABAMA;
STATE OF ARKANSAS; COMMONWEALTH OF
KENTUCKY; STATE OF
LOUISIANA; STATE OF MISSOURI;
and STATE OF MONTANA,

Plaintiffs,

v.

XAVIER BECERRA, in his official
capacity as Secretary of Health and
Human Services; THE UNITED
STATES DEPARTMENT OF
HEALTH AND HUMAN SERVICES;
CHIQUITA BROOKS-LASURE, in her
official capacity as Administrator of the
Centers for Medicare and Medicaid
Services; THE CENTERS FOR
MEDICARE AND MEDICAID
SERVICES; THE UNITED STATES
OF AMERICA,

Defendants.

No. 1:22-cv-113-HSO-RPM

DECLARATION OF MICHAEL MCCLANAHAN

I, Michael McClanahan, declare as follows:

1. The facts set forth in this declaration are based on my personal knowledge, and if called as a witness, I could and would competently testify to the following matters under oath.
2. I am the President of the National Association for the Advancement of Colored People Louisiana State Conference (“Louisiana NAACP”), a proposed intervenor in the above-captioned matter. The Louisiana NAACP is a nonpartisan, nonprofit organization that is an affiliate of the NAACP.

3. I am authorized to provide this declaration on behalf of the Louisiana NAACP. I have held the position of President for Louisiana NAACP for the past six years. In performing my duties as the President of Louisiana NAACP, I often interact with Louisiana NAACP members, and I regularly work with the Louisiana NAACP units (branches, chapters, and committees) and other NAACP units responsible for carrying out the mission of the organization. We hold quarterly meetings for state conference members, and where committee chairs report on their committee activities. Additionally, I have a standing meeting every week for members from across the state to bring any concerns to me on an ad hoc basis.
4. Before my term as president of the Louisiana NAACP, I served as the president of the Baton Rouge branch and also as an active member. In total, I have been an active member of the NAACP for more than a decade.
5. The NAACP is the nation's oldest and largest civil rights organization, which was founded in 1909. We share the mission of the NAACP, which is to "achieve equity, political rights, and social inclusion by advancing policies and practices that expand human and civil rights, eliminate discrimination, and accelerate the well-being, education, and economic security of Black people and all persons of color."¹ Although Louisiana NAACP's membership consists largely of Black people, we aim to support all people of color and all members of underrepresented and vulnerable populations.
6. The Louisiana NAACP has more than 40 active units and several thousand members across the state of Louisiana. Thousands of Louisiana NAACP's members are eligible for Medicare, and a significant number are Medicare beneficiaries.

¹ NAACP, *Our Mission*, <https://naacp.org/about/mission-vision> (last visited May 10, 2023).

7. The Louisiana NAACP's efforts to implement the mission of NAACP have led us to conduct and support efforts on a wide range of social issues. This includes our work on health issues, which is spearheaded by our Health Committee. The Louisiana NAACP's Health Committee is led by our Health Chair, Mrs. Alma Stewart Allen, who is a registered nurse and public health policy advocate.
8. We often collaborate with other organizations in our health programming. The money we receive from our membership dues is also an important part of how we fund our programming and activities, including on health matters.
9. The Louisiana NAACP strives to advocate for our members on issues that matter to them. Louisiana NAACP members, and others throughout Louisiana, raise questions and concerns through our legal redress line, during monthly meetings, and at office hours. Over the years, the Louisiana NAACP has received a broad range of complaints, including health-related complaints. The Louisiana NAACP has responded to concerns in different ways, such as helping individuals write a statement or fill out a complaint form, conducting informal investigations into the problem, sending letters to the medical board, and engaging in legislative advocacy.
10. The Louisiana NAACP has strong interests in the stated aims of the Center for Medicare & Medicaid Services ("CMS") 2021 final rule, the rule that adds an improvement activity entitled "create and implement an anti-racism plan" in the health equity subcategory ("anti-racism rule"). Many of our members, as Medicare recipients, are the direct beneficiaries of this rule. The anti-racism rule incentivizes doctors and health care providers to identify racial health disparities, create a plan to prevent and address racism, and ensure services are accessible and understandable for those seeking care.

11. First, the Louisiana NAACP has an interest in defending the anti-racism rule because the rule helps to advance our mission to eliminate racial health disparities. I served on the Louisiana COVID-19 Health Equity Task Force, on behalf of the Louisiana NAACP. This Task Force was convened by the governor and was designed to examine how health inequities are affecting communities most impacted by COVID-19. As part of this Task Force, we prepared a report on health equity in 2020, which identified grave disparities in health care across Louisiana, especially for Black communities and other communities of color.² For example, in the state of Louisiana, 33% of the population is Black. But in 2020, they accounted for a disproportionate share of positive cases, hospital admissions, and deaths from COVID-19.³

12. The report also found that inequities in Louisiana's health care system disproportionately harm Black communities in Louisiana. For example, racial segregation in some Louisiana's cities place predominantly Black communities in areas with "[s]ubstandard housing, abandoned buildings, [and] vacant lots," where they suffer from over-exposure to environmental harms.⁴ "[T]he location of highways, polluting industries, and the development of flood-prone property" have a similar effect, further contributing to Black communities' "greater susceptibility to illness and disease."⁵ This stress on Black communities is compounded by the lack of access to healthy food, quality affordable

² La. COVID-19 Health Equity Task Force, *Subcommittee Reports*, https://www.sus.edu/assets/sus/LAHealthEquityTaskForce/June-COVID-Task-Force-Subcommittee-Reports.pdf?fbclid=IwAR00GlvB8HrmW_Lo1YQoyFa0SfV9o-B3uAINdJ9dRdfGj3LnyUQHsH0jbyI (last visited May 10, 2023).

³ *Id.* at 11 (Excluding individuals whose race was recorded as unknown, 60% of positive cases, 63% of hospital emissions, and 54% of deaths occurred among Black individuals in 2020).

⁴ *Id.* at 62.

⁵ *Id.*

housing, and green space.⁶ These factors make it all the more important that health care providers consider ways to improve care.

13. The report also explained that racial inequities in Louisiana lead to “inter-generationally transferred black poverty and disadvantage” and have “a direct link to public health problems, as is evident through the COVID-19” pandemic.⁷

14. The Louisiana NAACP believes that one of the best ways to improve health outcomes and work to fix these racial health disparities is by supporting measures to identify, prevent, and correct disparities and discriminatory practices in healthcare. This includes incentives for medical providers to improve the care they provide, such as their care for communities of color, who are historically disenfranchised and are more likely to experience the effects of medical racism.

15. Second, the Louisiana NAACP has an interest in preserving the anti-racism rule because the rule seeks to increase access to affordable, quality healthcare in Louisiana. My experiences as president of the Louisiana NAACP and on the Louisiana COVID-19 health equity Task Force contribute to my knowledge of the many shortcomings in Louisiana’s provision of health care, which have led to persistent racial health disparities. By creating financial incentives for Medicare providers to provide improved and more consistent care, regardless of a patient’s race, the anti-racism rule may decrease these, and other, racial health disparities.

16. Third, the Louisiana NAACP has an interest in defending the anti-racism rule because the rule is designed to increase cultural competency and racial sensitivity among medical providers. Our members have experienced implicit bias and discrimination in the

⁶ *Id.*

⁷ *Id.*

healthcare system. They have shared that they feel they receive better care from Black doctors or white doctors who are culturally sensitive. Some of our members have experienced and warned others about medical providers who use racial epithets to insult Black people and treat marginalized people of color differently. They have expressed concerns about going to a medical provider who is not culturally sensitive or who may harbor negative stereotypes, such as the stereotype that Black patients do not feel as much pain as white patients, that could cause the provider to provide a lower level of care.

17. Medicare providers who choose to implement the anti-racism rule would be indicating to prospective Black patients who are concerned about physicians' cultural sensitivity that they are aware of these concerns and working to improve health disparities. Conversely, rescinding the anti-racism rule on the basis that anti-racist activities are somehow racially discriminatory, or do not improve healthcare or health outcomes, will likely discourage medical providers from taking measures to identify and resolve racial health disparities.

18. Reducing barriers to healthcare, including through measures to address racial discrimination in healthcare such as anti-racism rules, is a worthy endeavor that the Louisiana NAACP and our members believe in. This anti-racism rule is needed and should not be rescinded. If rescinded, it will be a step backwards in advancing health equity for Louisiana NAACP members and negatively impact on the NAACP's mission to ensure that our members, particularly those eligible for Medicare, receive better health care.

I solemnly swear and affirm under the penalties of perjury that the foregoing is true and correct based on my personal knowledge.

/s/ Michael McClanahan
Declarant's Signature

5/11/2023
Date

Michael McClanahan
Declarant's Printed Name